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ABSTRACT

The Supreme Court opinion of June 2002 in "Zelman et al. versus Simmons-Harris et al." is reviewed in this paper. In the first section, an interpretation of the ruling is offered in terms of four evaluative criteria: freedom of choice, productive efficiency, equity, and social cohesion. Unsurprisingly, the opinion strongly emphasized parental freedom of choice over the other criteria. In the second section, the authors consider whether the Supreme Court ruling represents a major victory for voucher advocates and whether it will have a substantial impact in improving America's schools. The discussion in this paper takes a rather skeptical position, and eight justifications are offered for such a view. A few of them are that reforms to education provision have only a limited impact on the educational achievements of most school children, that education voucher reforms are unlikely to have very powerful impacts on the education system, that families and private schools are not particularly enthusiastic about vouchers, and that the future of vouchers will be affected by the federal legislation in the Leave No Child Behind Act of 2001. Also, there are plenty of alternatives to voucher programs for those individuals motivated to seek privatized public education. (RT)

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National Center for the Study of Privatization in Education

Teachers College, Columbia University

Does the Supreme Court ruling on vouchers in Cleveland really matter for education reform?

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Abstract In this note, we review the Supreme Court opinion of June 2002 in *Zelman et al.* v. *Simmons-Harris et al.*, 00-1751). In the first section, we offer an interpretation of the ruling in terms of four evaluative criteria: freedom of choice, productive efficiency, equity, and social cohesion. Unsurprisingly, the opinion strongly emphasized parental freedom of choice over the other criteria. In the second section, we consider whether the Supreme Court ruling represents a major victory for voucher advocates and whether it will have a substantial impact in improving America's schools. Our discussion takes a rather skeptical position, and we offer eight justifications for such a view.

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1. Introduction

This note discusses the Supreme Court decision in June 2002 as to the legal status of the Cleveland Scholarship and Tutoring Program (*Zelman et al. v. Simmons-Harris et al.*, 00-1751, CSTP). On June 27 2002, in a 5–4 ruling, the Supreme Court held that the program does not offend the Establishment Clause.

Other writers may offer commentary on the legal ramifications of the decision. Here, we ask a simple question: How much does the Supreme Court ruling on education vouchers really matter for transforming the educational system? Bluntly, our answer is 'Probably not much' (unless it marshals political and legal victories leading to universal vouchers). Before detailing our reasons for this slightly jaundiced view, we briefly review the opinion.

2. What the Supreme Court thinks about vouchers

The Supreme Court faced a relatively narrow question: Does the CSTP violate the Establishment Clause of the Constitution?

In answering this question, the Supreme Court focused on the choices entailed in the CSTP as regards a religious preference for schooling. The focus on choice was particularly clear in the oral arguments to the Supreme Court of February 20 2002 (Proceedings, 00-1751). In these arguments, the constitutionality of the voucher program was premised on neutrality, interpreted in three ways by Ms. Judith L. French, on behalf of the State Petitioners. Neutrality was upheld in the criteria for who receives the benefit: (low-income) residents of a school district that has been taken over by state control. Neutrality was upheld in the requirements placed on schools: the program "requires schools not to discriminate based on race, religion, or ethnic origin, that ensures that even a religious school may not discriminate in favor of students of their own religious faith" (p.5). Finally, neutrality was upheld in that the benefit itself was a money voucher, i.e. a fungible token with broad use. So, the program would be constitutional if "the aid recipients have generally independent and private choice… could choose from a huge variety of options, most of which were secular… [and] only an insignificant proportion of the total program money will end up going to sectarian schools" (Mr. Robert H. Chanin, p.47). The Supreme Court therefore had to rule on whether such choices were available.

Emphatically, the Supreme Court ruling in *Zelman* was premised primarily on the expansion of school 'choice':

> We believe that the program challenged here is a program of true private choice, consistent with *Mueller*, *Witters*, and *Zobrest*, and thus constitutional. As was true in those cases, the Ohio program is neutral in all respects toward religion. It is part of a general and multifaceted undertaking by the State of Ohio to provide educational opportunities to the children of a failed school district. It confers educational assistance directly to a broad class of individuals defined without reference to religion, i.e., any parent of a school-age child who resides in the Cleveland City School District. The program permits the participation of *all* schools within the district, religious or non-religious. Adjacent public schools also may participate and have a financial incentive to do so. Program benefits are available to participating families on neutral terms, with no reference to religion. The only preference stated anywhere in the program is a preference for low-income families, who receive greater assistance and are given priority for admission at participating schools. (p.11)

But freedom of choice is only one – albeit important – criterion for evaluating a school system or an education reform.[1] A more comprehensive framework would also ask whether a reform was efficient, whether it was equitable, and whether it produced social cohesion (a major reason for public financing of education).

The last of these criteria – social cohesion – is reflected in the very claim that the voucher program violated the U.S. Constitution. Indeed, Justice Breyer's dissent emphasized the risk of "religiously based social conflict" (p. 1), and the importance of the *separation* of church and state rather than simply neutrality. And, Justice Stevens's dissent ends with: "Whenever we remove a brick from the wall that was designed to separate religion and government, we increase the risk of religious strife and weaken the foundation of our democracy" (p. 3). The ruling offers two counters to the contention that social cohesion will be impaired. Justice O'Connor notes that this voucher program is small-scale, and that substantial financial support exists for religious schools via other social programs (e.g. Medicaid); yet, these programs appear to have generated no social problems. The other rebuttal contends that the only instance of "divisiveness" or "strife" is the litigation itself (pp. 20-21, n7).

It is probably on the question of equity that the opinion is most favorable to voucher advocates: school choice was being made available to low-income families residing in a low-performing school district. In his concurring statement, Justice Thomas writes that "failing urban public schools disproportionately affect minority children" and "many blacks now support school choice programs because they provide the greatest educational opportunities for their children in

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[1] In his dissenting opinion, Justice Stevens argues that the idea of choice does not entitle parents to any choice. He also distinguishes between public school choice and inter-sector school choice.

struggling communities". So, a voucher scheme that targets low-income families, who previously had few choices, may be equitable. Possibly, vouchers as 'opportunities for struggling communities' may be the tipping factor that encourages their wider adoption.

Paradoxically, the opinion pays little attention to efficiency in the use of public resources, despite this having been the focus of much of the voucher debate in recent years. Indeed, choice trumps efficiency: Justice O'Connor writes that "For nonreligious schools to qualify as genuine options for parents, they need not be superior to religious schools in every respect. They need only be adequate substitutes for religious schools in the eyes of parents". The implication here is that we do not need to second-guess the suitability of the choices that parents make; these choices will reflect the best schooling, given the parents' preferences and circumstances.[2] In his dissent, however, Justice Souter discusses in considerable detail the cost advantage that religious schools may have over other private schools.

Overall, then, the Supreme Court ruling emphasizes the freedom of choice entailed in voucher reforms. We now turn to a discussion of the importance of this ruling for education reform.

3. Does the Supreme Court decision matter?

The Supreme Court ruling is clearly of great salience to the participants involved in the case. However, we can identify numerous reasons why the debate over education vouchers that has made its way to the Supreme Court is less important than it may appear at first glance to the education reform agenda across the nation. We itemize these reasons below.

First, reforms to education provision have only a limited impact on the educational achievements of most school children. Basically, family behaviors count much more than schools do in determining the well-being of, and opportunities for, children (Levin & Belfield, 2002). At least 90 percent of the waking hours of a child from birth to the age of 18 is spent in an environment heavily conditioned by families, not by schools (Sosniak, 2001). Evidence on test scores reflect these proportions: Hoxby (2001) finds family variables account for more than 93

[2] During the oral arguments, there was some discussion of the relative efficiency of public and private schools; in response to the statement that "there is mostly anecdotal material comparing the kind of job that's done in parochial and secular schools", the Justice's reply was, "I don't think it's anecdotal at all. I mean, there are extensive studies that show that parochial schools do a better job" (p.64). This remark, echoed in other comments by the Justices, suggests a reasonably secure belief in the relative efficiency of religious schools.

percent of the variance in 12th grade mathematics scores, with less than 3 percent being explained by school input variables (but see Wenglinsky, 2002). We are not claiming that schools should be 'let off the hook', or that efficiency gains should not be sought. Rather, we should be realistic about what can be achieved through reforms to the school system. To have a large educational impact, vouchers would need to affect family conditions and behaviors far more radically than simply through expanding choice.

Second, education voucher reforms are unlikely to have very powerful impacts on the education system (Rothstein, 2002). Typically, voucher advocates emphasize the freedom of choice and productive efficiency gains that come with vouchers. There is plenty of high-quality evidence on each of these issues (see Gill et al., 2001).

On freedom of choice, there may be advantages from the introduction of vouchers (perhaps through higher parental satisfaction, Peterson & Hassel, 1998; Greene, 1998). But, many parents already face a reasonably large choice set (Henig, 1994; as high as 70 percent of parents have choice according to Hoxby, 2001), and can exercise choice across many dimensions (inter-district, intra-district, intra-school, and inter-sector). Parents may be risk-averse in changing from 'standard' public schooling, to 'unknown' private schooling, where the variance in quality may be wider. Perhaps as a reflection, the utilization rates for vouchers are considerably less than 100 percent (for the experiments in Dayton, Washington DC, and New York, Howell & Peterson report that 20-35 percent of low-income voucher recipients awarded a three-year voucher of between $1,400–$1,700 failed to use it at all). Thus, benefits would be limited to the *additional* choice options that would be released with a voucher, multiplied by the use rate (see Teske & Schneider, 2001).

On productive efficiency, the gains are assumed to come via three routes: competitive pressures; superior ownership types; and faster rates of innovation. Overall, however, small-scale targeted voucher programs yield only weakly positive achievement gains for some sub-groups of students and or across some subjects (Howell & Peterson, 2002; Rouse, 1998; Metcalf, 2001). The pressures from competition induce some efficiency gains (Hoxby, 2000); but the effects are not dramatic (Belfield & Levin, 2001), and there is no guarantee that vouchers will promote much competition in K–12 schooling (Hess, 2001). The evidence on educational results from alternative ownership types – charter, for-profit, and private schools – is inconclusive. Across charter schools, there is no strong evidence of greater effectiveness or cost-effectiveness, even where regulation is lighter (see Miron & Nelson, 2002; Peterson & Campbell, 2001). Recently, for-profit schools have experienced substantial difficulties: these enterprises enter a sector with complex, multiple regulations and monitoring; they face high marketing costs and difficulties in

establishing brand loyalty; they are offered short-term contracts; and they may be unable to reap economies of scale (see Molnar, 2001; Levin, 2001). The evidence on private schools suggests that these serve to raise attainment (the amount of schooling) by modest amounts, with achievement not much affected (see Figlio & Stone, 1999; Neal, 1997; on the rate of return to private schooling, see Belfield et al., 2002). Plus, for programs where the voucher is set as low as $2250, the supply of private schools may be relatively price-inelastic (although a higher value voucher would encourage more private schools). So, across the different ownership types, even if there is a modest improvement in effectiveness (e.g. test scores), there is no clear evidence of greater efficiency (e.g. test scores per dollar). Finally, on rates of innovation, there is no strong evidence that vouchers promote innovation and or invention (or that they encourage the diffusion of best-practice management). Levin (2002) notes that Edison Schools, the main for-profit education provider, uses a somewhat innovative organizational model, but a traditional pedagogy with off-the-shelf curriculum materials.

In summary, the impact of vouchers on the education system – in promoting freedom of choice and productive efficiency – is unlikely to be substantial. Plus, any adverse impact may be offset by inequities or impairment of social cohesion. On these two important evaluative criteria, much less is known with certainty.[3] Moreover, this voucher program itself is neither an expansive nor a generous example of a voucher program (e.g. compared to the Milwaukee Parental Choice Program).[4] Perhaps of necessity, the most recent policy proposal makes a virtue out of the limited effect of vouchers: Peterson & Howell (2002) find no effects of vouchers on educational results in two of three cities, and no effects, at all, for Hispanic students. Therefore, they call for vouchers only for African American students in inner-cities, primarily as a way to reduce racial inequities in schooling, rather than to make system-wide improvements.

Third, even as voucher programs have been given the go-ahead by the Supreme Court, this sanction is not a *carte blanche*. The law only states what is permissible; it does not say what

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[3] The concern about inequities has been raised by Witte (1999) and Gill et al. (2001). Concerns about social cohesion have been considered by Betts and Fairlie (2001) and Weiher and Tedin (2002), although see Peterson & Howell (2002, Chapter 5) and Peterson & Campbell (2001).

[4] Before the ruling was made, Viteritti (2002) noted the possible irony in defeat for voucher proponents: if the Supreme Court had decided that the voucher was insufficiently funded (making religious schooling the only feasible option and so falling foul of the Establishment Clause), then voucher advocates would probably lobby strongly for programs where the value of the voucher was equivalent to the per-pupil expenditure. These full-aid vouchers would offer a much stronger test of the benefits of competition and choice, and be much more attractive to parents. In fact, only Justice Souter was caught up in this line of argument. In dissenting, he argued that the voucher program was so constructed that only religious schools could participate, but he also added that any other construction would be "even more egregiously unconstitutional than the current scheme due to the substantial amount of aid to religious teaching that would be required" (p. 23, n16).

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is desirable. It also does not overcome state proscriptions on funding to private schools or to religious entities (Kemerer, 2002). Generally, the power of court rulings to effect any change has been regarded skeptically: courts neither have the 'power of the sword' nor the 'power of the purse' (Rosenberg, 1990); and even when begun, change is glacially slow (Patterson, 2001). Existing voucher programs such as the Parental Choice Program in Milwaukee have taken many years to develop, and have attracted substantial controversy (Witte, 1999). Even so, of 15,000 available vouchers in Milwaukee, only about 9,000 have been taken up after years of publicity and expansion of supply. Consistently, referenda on vouchers have been defeated by sizeable margins, with political opposition easily mobilized (Catterall & Chapleau, 2002). As regards the 'power of the purse', there is only limited information on the adjustment costs needed to finance and administer an overall voucher system; the estimates by Levin and Driver (1997) suggest that, regardless of political will or legal imperative, voucher systems may be very expensive to introduce. The voucher in Cleveland was for $2,250, an amount which did not entice many private schools to participate and where the main effect was to obtain places where the voucher cover the marginal cost in a low-cost school. Yet, a voucher set at a higher value would reduce the attractiveness of these programs to state legislatures. Governments might be wary of contracting with private schools, who may then gain political leverage for more resources (perhaps up to the state per-pupil funding).[5] Finally, this ruling is not an unconditional mandate for voucher programs; other factors must be in place. In *Zelman*, vouchers were appraised in light of all other schooling options, such as magnet and community schools (Peterson, 2002), and the acknowledged educational failures in the Cleveland School District. Such conditions do not exist in all states, or across all districts.

Fourth, families – an important constituent in the politics of schooling – are not particularly enamored with vouchers. Moe's (2001) analysis of survey data suggest that – even when they understand voucher programs – the general public favors public schooling. (Specifically, two-thirds respond "yes" to "public schools deserve our support, even when they are performing poorly" and 43 percent of public school parents respond "yes" to "I believe in public education, and I would not feel right putting my children in private school"). Even where families have low opinions of public schooling, they still report high opinions of, and so support for, their own public schools. Regardless, parents are unlikely to become engaged in a reform to make public schools more efficient: they are motivated by concerns about effectiveness (it is

[5] Justice Souter offers a scenario where "New schools have presumably pegged their financial prospects to the government from the start, and the odds are that increases in government aid will bring the threshold voucher amount closer to the tuition at even more expensive religious schools" (p.32).

taxpayers who care about efficiency). Furthermore, less-educated families tend to report higher satisfaction levels with lower expectations, so "the people in American society who are the most desperately in need of education reform are precisely those least likely to demand it" (Moe, 2001, 96). As well, voucher programs are complicated: they can be designed in various ways to meet different objectives. Public understanding of vouchers is spotty, and the public tends to be risk averse to replacing the familiar as Moe (2001) argues. So, ideology, inertia and incomprehension all suggest parental support for voucher programs will not be high.

Fifth, private schools themselves are not that enthusiastic about vouchers. There is no evidence of large pent-up supply of private schools that would enter the market, were vouchers to be introduced (Downes and Greenstein, 1996). There appear to be few economies of scale in schooling, such that enrolment growth in existing private schools or franchising would be profitable (Andrews et al., 2002). As well, religious schools will be sensitive about enrolling students who are imperfectly devout (on the growth of non-religious students in urban Catholic schools, see Sander, 2001); and independent schools will be sensitive to the potential or perceived loss of selectivity from enrolling voucher students. Perhaps most importantly, however, private schools will be wary of taking government funds in case these are accompanied by government regulation and oversight (Encarnation, 1983). In law if not in practice, the government has substantial discretion over how private schools are run, and this law is likely to encroach further if private schools accept voucher-funded students (Sugarman & Kemerer, 1999).[6] In Milwaukee, for example, private schools that participated in the voucher program would not accept student testing programs that would allow direct comparisons of student achievement between schools. But the Cleveland plan that passed muster with the U.S. Supreme Court requires such testing. A non-trivial proportion of private schools are likely to refuse to accept voucher students under such regulation.

Sixth, the future of vouchers will be affected by the federal legislation in the 'Leave No Child Behind' Act of 2001. Although this legislation emphasizes school choice, it does so in ways that are likely to enhance public school choice rather than private school choice. The legislation does authorize $100 million for fiscal years FY02-FY07 for school choice programs. But, it also maintains capital financing support for charter schools; and these schools are competition with private schools. And it promotes 'safe school' choice, for students to move from dangerous public schools to safer ones. Furthermore, the legislation mandates more

[6] In his dissenting opinion, Justice Breyer raises the specter of private religious schools challenging this discretion: "Why will different religions not become concerned about, and seek to influence, the criteria used to channel this money to religious schools? Why will they not want to examine the implementation of the programs that provide this money…?" (p.8).

accountability, such as tests for Adequate Yearly Progress. Thus, the path of legislation is likely to re-enforce the wariness of private schools about accepting voucher students.

Seventh, public priorities change, and it may be that the purported advantages of vouchers are regarded as less important over the next decade or so. The advantages of vouchers are in allowing freedom of choice and (perhaps) in promoting efficiency in the education system. The disadvantages are (again, perhaps) the inequities and the loss of social cohesion from an atomistic schooling system. So, vouchers will be more attractive in societies where choice and efficiency are priorities, but less so where social cohesion and 'publicness' are important. Possibly, a long period when choice and efficiency were priorities will be succeeded by a long period when social cohesion and public goods become priorities, especially as the country relies more on government and citizens for 'homeland defense'. Hirschman (1982) gives two justifications for this periodic cycle: one is a sense of disappointment with private material goods; the other is a sense of unease and antagonism towards a class of the 'super-rich'. If the 1980s and 1990s was a period where private interests were encouraged, then the 2000s and 2010s may be a period of public action.

Eighth, and perhaps most importantly, for those individuals motivated to privatize public education in the US, there are plenty of alternatives to voucher programs. These are likely to absorb much more attention. Two alternatives – both recent, both growing rapidly, and both dwarfing voucher programs – are home-schooling and tuition tax credits. For someone who really wants to privatize education, these are the policies to promote.

Home-schooling is the *ne plus ultra* of privatization: privately funded, (very) privately provided, and (almost completely) privately regulated. Only legalized within the last two decades (Somerville, 2001), home-schooling has grown from around 400,000 students in 1994 to around 800,000 by 1999 (Bauman, 2002; Welner and Welner, 1999). Looked at positively, home-schooling parents may have incentives and preferences that are very closely aligned with the welfare of their children; they also receive zero or limited public funds. Looked at negatively, home-schooling parents may be considered to have isolated themselves from their local school community, and from the social customs of their neighborhood. More concretely, it is appropriate to declare that evidence on home-schooling provision is not easy to obtain (Stevens, 2001; Lines, 2000). There are some legal and regulatory constraints on home-schooling, but if these were weakened or if home-schooling gained in legitimacy then the privatization of US schooling would be much advanced.

The second strand of privatization that advocates might regard as promising is tuition tax credit reform. As of Summer 2002, six US states have tuition tax credit laws, and a further ten

more are considering their introduction. The exact formulation of the credit varies across states, but all the credits allow parents to claim back expenses for private schooling. So far, these amounts are small (less than $1,000), but the eligibility to claim the tax credit is wide, to include corporations as well as parents. In all cases, however, the credits reduce government revenues, and (in the main) subsidize current spending on private education rather than induce new spending (Belfield and Levin, 2002). Such tax credits are also much less likely to face legal challenges, making implementation easier and reducing educational oversight by government under what is viewed as a tax transaction rather than an educational one. Thus, tuition tax credits offer a clear opportunity for individual families to switch toward private schools, and for companies to receive tax credits for investing in education provision.

Together, these eight arguments suggest that debate over voucher reform is far from won, and that the Supreme Court decision is only a small supportive step. More conclusively, they suggest that the voucher movement faces a number of challenges that the Supreme Court ruling does not substantially affect.

Of course, predicting the effects of the Supreme Court ruling is fraught with uncertainties, many of which may undermine the argument being made here.

One obvious caveat is that the Supreme Court rulings have substantial symbolic power, persuading groups in society toward a particular position on vouchers or school choice. Such suasion would alter the politics of school choice, possibly leading to more widespread adoption of a pro-voucher agenda amongst groups that previously were anti-voucher. Relatedly, school choice advocates would intensively promote the decision, perhaps reducing to slogans or sound-bites the idea that the US Constitution is "for choice".

Perhaps the most important caveat is that the Supreme Court ruling provides a legal blueprint for the voucher 'movement'. Voucher programs vary significantly in their terms of finance, eligibility, and support services. Such variation has meant that voucher supporters are a disparate collection of academics, advocacy groups, fiscal conservatives, and community groups – each with their own blueprint (Moe, 2001). It has also meant that many parents, uncertain of what a voucher would entail, have stayed on the sidelines. With more clarity as to a workable voucher program, and a specific template to work with, a voucher movement may both coalesce and grow.[7] These ideological debates may change political landscape for vouchers.

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[7] However, a check to the growth in the voucher movement may be apparent in the Supreme Court ruling itself. Some voucher advocates may have tolerated small-scale programs for low-income inner city groups as a first step to full-scale vouchers. If the statements of Justice Thomas are held to – that vouchers are for minority groups in struggling communities – then there may be no full-scale voucher programs. The

4. Conclusion

There are no quick fixes to improving America's schools, and there are no easy choices. In these two respects, certainly, education vouchers fit right in.

In emphasizing freedom of choice, the Supreme Court has clearly given support to a particular strand of reform that comes under the banner of education privatization. In this case, what is being made private is the decision that a parent will make about the education that he or she wants for their children. What is being lost to the public, then, is the ability to influence that decision for the social good. However, the numbers of parents involved may be small, and, we argue, are likely to remain so. In the grand scheme of things, the substantive effect on educational reform will be minimal, although it is likely that the political and ideological debates will increase in fervor as a result of the Supreme Court opinion. Nonetheless, the ideas of choice, efficiency, equity, and social cohesion – as well as the notion of a trade-off among them – remain fundamental to our understanding of the impact of voucher reform. Such ideas are likely to be increasingly important if the ideological debates heat up.

Undoubtedly, the ruling will please voucher advocates. It stresses the advantages of choice and the fairness of education vouchers over possible losses in social cohesion. It also corresponds well with advocates' new, focused agenda: voucher programs for low-income families in inner-cities. And, it clarifies a debate where beforehand uncertainty had scared away supporters. At issue for the future is whether these factors are sufficient to tip the balance in favor of more programs. But in omitting a concern for social cohesion, it also ignores one of the most fundamental arguments for government-support for education in a democratic society. What binds us to the commonwealth is what we share in terms of civic participation in democratic institutions. These require a common set of values and understanding and a toleration for different points of view. They require knowledge of the political and economic institutions that are the bedrock of our society and how all citizens have rights under those institutions. They require experience at discourse when controversy prevails and agreement on a set or procedures for resolving controversy. These needs are heightened in an age of vast immigration and expanding inequalities that serve to separate the population by race, language, housing, and

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advocates who were waiting for such voucher programs may become disenchanted and reduce their support.

economic circumstances. Voucher plans that do not address this issue may create a future capacity for greater divisiveness.

References

Andrews, M., Duncombe, W., & J. Yinger. (2002). Revisiting economies of size in American education: are we any closer to a consensus? *Economics of Education Review, 21*, 245–262.

Bauman, K. J. (2002). Home-schooling in the United States: Trends and characteristics. *Education Policy Analysis Archives, 10,* 26.

Belfield, C. R., & Levin, H. M. (2001). The effects of competition on educational outcomes: A review of the US evidence. Mimeo, National Center for the Study of Privatization in Education, www.ncspe.org.

Belfield, C. R., & Levin, H. M. (2002). The economics of tuition tax credits. Mimeo, National Center for the Study of Privatization in Education, www.ncspe.org.

Belfield, C. R., Brown, C. A., & Siebert, W. S. (2001). The rate of return to private schooling. Working Paper: National Center for the Study of Privatization in Education, www.nscpe.org.

Betts, J. R. & Fairlie, R. W. (2001). Explaining ethnic, racial, and immigrant differences in private school attendance. *Journal of Urban Economics, 50*, 26-51.

Catterall, J., & R. Chapleau. (2001). Voting on Vouchers: A Socio-Political Analysis of California Proposition 38, Fall 2000. Mimeo, National Center for the Study of Privatization in Education, www.ncspe.org.

Downes, T. A., & Greenstein, S. M. (1996). Understanding the supply decisions of non-profits: modeling the location of private schools. *Rand Journal of Economics, 27*, 211-218.

Encarnation, D. J. (1983). Public finance and regulation of nonpublic education: Retrospect and prospect. In T. James & H. M. Levin (Eds.). *Public dollars for private schools.* Philadelphia: Temple University Press.

Figlio, D. N., & Stone, J. A. (1999). Are private schools really better? *Research in Labor Economics,* 18, 115–140.

Gill, B., Timpane, P. M., Ross, K. E., & Brewer, D. J. (2001). *Rhetoric versus reality: What we know and what we need to know about vouchers and charter schools.* Washington, DC: Rand.

Greene, J. P., Howell, W. G., & Peterson, P. E. (1998). Lessons from the Cleveland Scholarship Program. In P. E. Peterson & B. C. Hassel (Eds.), *Learning from school choice.* Washington, DC: Brookings Institute.

Henig, J. R. (1994). *Rethinking school choice.* Princeton, NJ: Princeton University Press.

Hess, F. M. (2001). *Revolution at the margins. The impact of competition on urban school systems.* Washington, DC: Brookings Institute.

Hirschman, A. O. (1982). *Shifting Involvements. Private interest and public action.* Princeton, NJ: Princeton University Press.

Howell, W. G., & Peterson, P. E. (2002). *The education gap. Vouchers and urban public schools.* Washington, DC: Brookings Institute.

Hoxby, C. M. (2000). Does competition among public schools benefit students and taxpayers? *American Economic Review, 90*, 1209–1238.

Hoxby, C. M. (2001). If families matter most, where do schools come in? In T. M. Moe (Ed.) *A Primer on America's Schools.* Stanford, CA: Hoover Institution Press.

Kemerer, F. R. (2002). The U.S. Supreme Court's decision in the Cleveland voucher case: where to from here? Working Paper: National Center for the Study of Privatization in Education, www.nscpe.org.

Levin, H. M. (2000). A comprehensive framework for evaluating large-scale vouchers. Working Paper: National Center for the Study of Privatization in Education, www.nscpe.org.

Levin, H. M. (2001). Thoughts on for-profit schools. Working Paper: National Center for the Study of Privatization in Education, www.nscpe.org.

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Levin, H. M. (2002). The potential of for-profits for educational reform. Working Paper: National Center for the Study of Privatization in Education, www.nscpe.org.

Levin, H. M., & Driver, C. (1997). Costs of an educational voucher system. *Education Economics*, *5*, 303–311.

Lines, P. 2000. Home-schooling comes of age. *The Public Interest*, *140*, 74–85.

Metcalf, K. (2001). Evaluation of the Cleveland Scholarship and Tutoring Program, 1998–2000. Report, available at http://www.indiana.edu/~iuice/index.html

Miron, G., & C. Nelson. 2002. Student Academic Achievement in Charter Schools: What We Know and Why We Know So Little. Mimeo, National Center for the Study of Privatization in Education, www.ncspe.org.

Moe, T. M. (2001). *Schools, vouchers and the American public.* Washington, DC: Brookings Institute.

Molnar, A. (2001). Calculating the benefits and costs of for-profit public education. *Education Policy Analysis Archives*, *9*, 15.

Neal, D. (1997). The effects of Catholic secondary schooling on educational achievement. *Journal of Labor Economics, 15*, 98–123.

Patterson, J. (2001). *Brown versus Board of Education.* New York: Oxford University Press.

Peterson, P. E. (2002). The Supreme Court school board. *Education Next*, Summer, 34–35.

Peterson, P. E., & Campbell, D. E. (Eds.). (2001). *Charters, vouchers and public education.* Washington, DC: Brookings Institute.

Peterson, P.E., & Hassel, B. C. (Eds). (1998). *Learning from School Choice.* Washington, DC: Brookings Institution Press.

Rosenberg, G. N. (1991). *The hollow hope: Can courts bring about social change?* Chicago: Chicago University Press.

Rothstein, R. (2002). Court lacks last word in aid to religious schools. *New York Times*, May 15, p. B8.

Rouse, C. E. (1998). Schools and student achievement: more evidence from the Milwaukee parental choice problem. *Federal Reserve of New York Economic Policy Review*, *4*, 56–65.

Sander, W. (2001). The effects of Catholic schools on religiosity, education, and competition. Working Paper: National Center for the Study of Privatization in Education, www.nscpe.org.

Somerville, S. (2001). Legalizing home-schooling in America. A quiet but persistent revolution. Mimeo. Home-school Legal Defense Association.

Sosniak, L. (2001). The 9% challenge: education in school and society. *Teachers College Record*, www.tcrecord.org, ID10756.

Stevens, ML. 2001. *Kingdom of Children. Culture and Controversy in the Home-Schooling Movement.* Princeton University Press: Princeton.

Sugarman, S. D., & Kemerer, F. R. (Eds.). (1999). *School choice and social controversy.* Washington, DC: Brookings Institution Press.

Teske, P., & Schneider, M. (2001). What research can tell policymakers about school choice. *Journal of Policy Analysis and Management*, *20*, 609–632.

Viteritti, J. P. (2002). Vouchers on trial. *Education Next*, Summer 2002, 24–35.

Weiher, G. R. & Tedin, K. L. (2002). Does choice lead to racially distinctive schools? Charter schools and household preferences. *Journal of Policy Analysis and Management*, *21*, 79-92.

Welner, K. M., & Welner, K. (1999). Contextualising home-schooling data. A response to Rudner. *Education Policy Analysis Archives*, *7*, 13.

Wenglinsky, H. (2002). How schools matter: The link between teacher classroom practices and student academic performance. *Education Policy Analysis Archives*, *10* (12). http://epaa.asu.edu/epaa/v10n12/.

Witte, J. (1999): *The market approach to education*. Princeton, NJ: Princeton University Press.

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